

July 19, 2017

From:

Alex Nguyen
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Santa Clara, CA 95055

To:

Marlene H. Dortch
Office of the Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554
Via ECFS and e-mail

Re: *Alex Nguyen v. Cellco Partnership & Affiliated Entities d/b/a Verizon Wireless*,
Proceeding No. 16-242, File No. EB-16-MD-003.

Dear Ms. Dortch:

I filed the complaint initiating the above-captioned proceeding on July 26, 2016, almost one year ago. The Communications Act requires the Commission to issue an order concluding such a proceeding within 5 months after the date on which the complaint was filed.¹ For complaints related to openness rules set forth by the *700 MHz Second Report and Order* (the “C Block Rules”), the Commission committed to rule within 180 days of receipt of such complaints.²

However, even with an extensive record of Verizon violating the C Block Rules, the Open Internet Rules, and the Communications Act (by disabling Apple SIMs, imposing discriminatory pricing on third-party devices, blocking Samsung from preloading applications that compete against Verizon-backed applications, etc.) and making false statements (claiming Google didn't

¹ 47 USC § 208(b)(1)

² *700 MHz Second Report and Order*, 22 FCC Rcd. 15374 ¶ 230 (2007)

have the ability to deliver software to Google devices³ even though Google obviously did,⁴ claiming Verizon didn't block FM radio features⁵ even though Verizon pushed software that “purposefully blocks” them,⁶ claiming technical reasons for blocking Samsung Pay⁷ even though Verizon blocked the application for commercial reasons,⁸ etc.), the Commission has yet to take enforcement action.

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- 3 Verizon, Legal Analysis at 28 (September 22, 2016) (“Google initially was unable to provide a means for delivering the necessary software that met Verizon’s technical standards to versions of the Nexus 6 purchased from other sources. After the initial launch of the device, however, Verizon and Google worked together to develop a solution to deliver the necessary software to those devices.”); Answer ¶ 131 (“The fact that Google was able to deliver software to the Asus Nexus 7 tablets that allowed them to work on the Verizon network is irrelevant to its ability to deliver software necessary to allow the Nexus 7 to work on Verizon’s network.”)
 - 4 Jake Smith, *Verizon is blocking Google Wallet on Galaxy Nexus*, <https://9to5google.com/2011/12/05/verizon-is-blocking-google-wallet-likely-because-of-isis-partnership/> (“The Verizon Galaxy Nexus will receive its updates directly from Google, not a carrier. But Google caved to Verizon and blocked Wallet from the device. The reason Verizon has chosen to kick Wallet out of the device is likely because of their recent creation of a new mobile payment project called ISIS.”); Jerry Hildenbrand, *Nexus 7 LTE getting Verizon compatibility update*, <https://www.androidcentral.com/nexus-7-lte-getting-verizon-compatibility-update> (February 12, 2014); Google, *Android updates: Nexus & Google Play edition devices*, <https://web.archive.org/web/20141227095521/https://support.google.com/nexus/answer/4457705> (“Nexus 4, Nexus 5, Nexus 6, Nexus 7, Nexus 9, and Nexus 10 devices receive the latest version of Android directly from Google.”)
 - 5 Verizon, *Company Policies*, <https://web.archive.org/web/20160907012045/https://www.verizon.com/about/responsibility/policies> (“There are no requirements that prevent Verizon’s handset suppliers from providing an FM radio chip in their devices.”)
 - 6 NextRadio, *I have an HTC One M8 on Verizon. Why did NextRadio stop working?* <https://nextradioapp.zendesk.com/hc/en-us/articles/210009633-I-have-an-HTC-One-M8-on-Verizon-Why-did-NextRadio-stop-working-> (May 17, 2017) (“Unfortunately, when Verizon pushed the Marshmallow update to their M8 phones, they appear to have removed the FM hardware API, so NextRadio is no longer able to control the FM receiver chip.”); National Association of Broadcasters, *Research Shows Increased Diversity in FM Radio on Smartphones*, <https://www.nab.org/xert/sciTech/2015/RD05182015.pdf> (May 15, 2015) (“It has recently been determined that the newly released successor model, the HTC One M9, is being shipped by Verizon with a different software load, which purposefully blocks the user accessing the device's FM radio capability via a downloaded app.”)
 - 7 Verizon, Answer ¶ 236
 - 8 Jason Del Rey, *Samsung Pay Eliminates Big Hurdle by Snagging Verizon as Partner*, <https://www.recode.net/2015/10/21/11619830/samsung-pay-eliminates-big-hurdle-by->

While the Commission delays ruling on this matter, Verizon continues to disable Apple SIMs and outright block applications like Samsung Cloud.⁹ Given Verizon's ongoing harm to innovation and competition, I pray the Commission will fulfill its commitment and statutory obligation to expeditiously take enforcement action and protect customers' ability to use the devices and applications of their choice and edge providers' ability to make the devices and applications of their choice available to customers.

Sincerely,



Alex Nguyen

Cc:

Tamara Preiss (VP, Federal Regulatory and Legal Affairs, Verizon)
David L. Haga (Counsel for Verizon)
Ann Rakestraw (Counsel for Verizon)
Michael Engel (FCC)
Rosemary McEnery (FCC)
Lisa Saks (FCC)

[snagging-verizon-as-partner](#) ('A Samsung Pay executive said this summer at a press briefing that the holdup with Verizon was over "economics," but declined to comment further.');

Walt Mossberg, *Mossberg: Samsung's New Galaxy S7 Phones Are Beautiful*, <https://www.recode.net/2016/3/8/11586774/mossberg-samsungs-new-galaxy-s7-phones-are-beautiful> ("Samsung says Verizon barred including Samsung's browser and Samsung Pay out of the box.")

- 9 Kellen Barranger, *Verizon's Galaxy Note 7 Another Example of Carriers Interfering for No Good Reason*, <https://www.droid-life.com/2016/08/22/verizons-galaxy-note-7-another-example-carriers-interfering-no-good-reason/> ('I just simply cannot use it [Samsung Cloud] because Verizon decided they didn't want me to and Samsung accepted that idea.... While I'm fine with Android Pay, it's baffling to me that Samsung, who has been pushing hard to get its own mobile payment system in the hands of as many people as possible, would simply say, "Sure, you can keep Samsung Pay off your variant! Cheers, bros!" And remember, when Samsung Pay launched last year, Verizon kept it from us all as long as they could, offering up a garbage excuse about them "evaluating" it longer than anyone else on the planet needed to. ... But with Samsung phones, it certainly seems like Verizon is dictating features that are included, how the UI is presented, and which services need to be left out to push Verizon's own sub-par options.');
- Samsung, *Using Samsung Cloud on Your Galaxy S8 and S8+*, <http://www.samsung.com/us/support/answer/ANS00062638/> (Samsung Cloud competes against Verizon Cloud, so Verizon made Samsung Cloud "not available for Verizon devices.")